

MINUTES OF THE MEETING
OF
THE NEBRASKA JUDICIAL RESOURCES COMMISSION
June 5, 2012

A meeting of the Nebraska Judicial Resources Commission was held on the 5th day of June, 2012, in Room 1507, State Capitol, with remote locations at Omaha, Nebraska; Hastings, Nebraska; North Platte, Nebraska; Scottsbluff, Nebraska; and Chadron, Nebraska.

Judge McCormack called the meeting to order in Room 1507, State Capitol Building in Lincoln, Nebraska. Roll call by the Secretary:

PRESENT

Judge Michael McCormack, Chr.
Judge Patrick McDermott
Judge Robert O'Neal
Judge John Samson
Riko Bishop
Mark Sipple
Amy Schlichting
Darlene Starman
Steven Mattoon
Robert Parker
Thomas Hoarty
Richard Carter
Brian Phares
Lori Scherer
Wayne Mark
Mike Day

ABSENT

Jayne Mann

The Chairman called for approval of the minutes of the meeting of March 27, 2012. Moved by Judge O'Neal, second by Darlene Starman that the minutes be approved. Voting yes, all present.

Chairman announced that purpose of the hearing was to consider whether or not the caseload statistics warranted the filling of certain judicial vacancies in the State of Nebraska arising from the retirement of Judges Gary Washburn and Charles Plantz, and whether or not the caseload statistics warrant the creation of an additional juvenile court judge in the Separate Juvenile Court of Douglas County, Nebraska.

The Chairman identified and received into the record Exhibits 1 through 13.

The Chairman then called for consideration of the vacancy in the County Court of the 8th Judicial District of Nebraska, as a result of the retirement of Judge Washburn. The Chairman called for testimony. Testimony in favor of filling the vacancy was received by the Commission. There was no testimony in opposition. It was moved by Judge O'Neal and seconded by Judge McDermott that the vacancy in the office of County Judge of the 8th Judicial District be filled with the primary office being located at Broken Bow, Custer County, Nebraska. Voting yes, all present. Motion carried.

The Chairman then called for consideration of the vacancy in the County Court of the 12th Judicial District of Nebraska, as a result of the retirement of Judge Plantz. The Chairman called for testimony. Testimony in favor of filling the vacancy was received by the Commission. Testimony in opposition was received. There was a lengthy discussion both in support of filling the vacancy and in opposition. Discussion included a proposal that the counties of Sheridan and Grant be moved from the 12th District to the 8th District as well as immediate service by the 8th District of those two counties. It was moved by Judge Samson and seconded by Ms. Bishop that the matter be tabled and to be taken up at the annual meeting of the Commission.

Judge McCormack then offered a substitute Motion in the form sent out in advance of the meeting and read the following into the record:

At this time the Judicial Resources Commission is meeting to determine if a vacancy exists in the office of the county court of the 12th Judicial District, specifically Rushville, Nebraska. There is also a serious need for an additional juvenile court judge in the Separate Juvenile Court of Douglas County, Nebraska. The Supreme Court plans to ask the 2013 Legislature to approve an additional judge for that court.

If the Commission determines not to act at this time, or finds that no vacancy exists in the office of the county court of the 12th Judicial District, then there is one open judgeship for the Legislature to consider in its 2013 session when it is asked to provide an additional judge for the Separate Juvenile Court of Douglas County. One of the options available to the Legislature would be to reduce the number of county judges in the 12th Judicial District by one, and increase by one the number of juvenile judges in the Separate Juvenile Court of Douglas County, and thus the total number of judges in the State of Nebraska would remain the same.

The Supreme Court plan is to ask the 2013 Legislature to realign the counties in the 8th Judicial District and the 12th Judicial District so that Grant and Sheridan Counties will move from the 12th District to the 8th District in order to more efficiently perform the functions of the county courts. Part of this realignment is premised on the county judgeship in the 12th Judicial District, presently in Rushville, not being filled.

The 12th Judicial District county court has been operating without a judge in Rushville since Judge Plantz's retirement on December 31, 2011. The judges of the 12th Judicial District and the judges of the 8th Judicial District have been consulted and are in agreement with the Supreme Court plan. The Nebraska State Bar Association has also been consulted and is in agreement with the Supreme Court plan.

The Supreme Court has asked, and I move, that the Judicial Resources Commission not act on the determination of whether a vacancy exists in the office of the county court of the 12th Judicial District by reason of Judge Plantz's retirement until the 2013 Legislature has had a chance to consider an additional judgeship in the Separate Juvenile Court of Douglas County. If the Legislature adds a juvenile judge in Douglas County, then the Legislature can decide whether it wants to reduce the number of county judges in the 12th Judicial District by one to compensate for this additional judgeship, or whether it wants to keep the same the number of county judgeships in the 12th Judicial District. If the Legislature decides not to reduce the number of county judgeships in the 12th Judicial District then, in such event, a vacancy is hereby declared in the office of the county court of the 12th Judicial District without further hearing of the Judicial Resources Commission.

Judge McDermott seconded the motion. Mr. Mark made a point of order that the motion was not proper while a motion to table was pending. Chairman sustained the point of order. Whereupon Judge Samson removed his Motion to Table and Ms. Bishop removed her second. Matter proceeded to a discussion of Judge McCormack's motion. The question was called. Upon roll call vote four voted in favor of the motion and twelve voted against the motion. The motion failed.

Judge Samson renewed his Motion to Table and Ms. Bishop renewed her second. After further discussion surrounding a proposal to conduct a pilot test of having the counties of Grant and Sheridan served by judges of the 8th District, the question was called. Upon roll call vote nine voted in favor of the motion and seven voted against the motion. The motion carried and the matter was tabled until the annual meeting.

The chairman called for consideration of the creation of a new judgeship in the Separate Juvenile Court of Douglas County, Nebraska. As the matter had received some discussion during the consideration of prior agenda items, it was moved by Mr. Phares, seconded by Mr. Mark that the Commission recommends to the Legislature that it create and fund a new juvenile court judge in the Separate Juvenile Court of Douglas County, Nebraska. Upon roll call vote, voting yes all present. Motion carried.

There being no further business to come before the Commission, it was moved by Mr. Mark and seconded by Ms. Starman, that the Commission stand adjourned. Voting yes, all present. Motion carried. Meeting adjourned.

Respectfully submitted:

A handwritten signature in black ink, reading "Patrick R. McDermott". The signature is written in a cursive, flowing style with a large, prominent "P" and "M".

Judge Patrick McDermott, Secretary